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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,004	10/29/2003	Brian R. Foucher	M0407-00005	7093
33222 7590 07/24/2007 JONES, WALKER, WAECHTER, POITEVENT, CARRERE & DENEGRÉ, L.L.P. 5TH FLOOR, FOUR UNITED PLAZA 8555 UNITED PLAZA BOULEVARD BATON ROUGE, LA 70809			EXAMINER KATCHEVES, BASIL S	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 07/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/696,004

Applicant(s)

FOUCHER, BRIAN R.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The applicant has cancelled claim 11 in the paper dated 5/7/07. Pending claims 1-10 and 12-20 are examined below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,545,171 to Colvin as in the previous action.

Regarding claim 15, Colvin discloses a prefabricated building which is shippable in a container (fig. 1) and having assemblages which are removed from the container in an order in which they are removed and used in the construction of a building.

Regarding claims 16, 20 Colvin discloses the assemblage as collapsible laterally.

Regarding claim 17, Colvin discloses the assemblage as being cantilevered (fig. 6: see cantilevered 81 & 82).

Regarding claims 18, 19, Colvin discloses the use of a second unit as a second floor (column 4, lines 20-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-10, 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,920,920 to Couse et al. in view of U.S. Patent No. 5,265,748 to Furukawa.

Regarding claims 1, 6, 10, Couse discloses a transportable, folded building (configuration shown in fig. 1), the building frame assemblage foldable laterally and vertically and designed to be placed upon a construction site. The building structure also contains a floor (fig. 8). However, Couse does not disclose the building frame assemblage as being separate from the container. Furukawa discloses a portable container for various articles (abstract) that has a removable top (fig. 18) for allowing the use of a crane to remove the objects within (column 1, lines 34-40) from the open top (vertically). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the multi-purpose container disclosed by Furukawa to transport the structure of Couse since Couse is designed to be treated as a standard vehicle, vehicles typically transported large distances by shipping containers. Removing the structure of Couse through the open top (vertically) with a crane would

be an obvious design choice depending upon the surrounding area and the placement of any other cargo within the container.

Regarding claim 2, Couse discloses the building as designed to have separate assemblage components (fig. 1: see various components) than the shipping container, removal of the Crouse structure from the Furukawa container would place the structure in a separate location.

Regarding claims 3, 4, Couse discloses the removed parts as being assembled and placed in their position as they are removed from the container and placed upon a permanent site.

Regarding claim 5, Couse does not disclose the use of a second unit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second unit, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8. This would be obvious to house a larger number of people than one structure has the capacity to hold.

Regarding claim 7, Couse discloses the use of a floor (fig. 8).

Regarding claim 8, Couse discloses the structure as secured to the site.

Regarding claim 9, 10, 12, 13, 14, Couse in view of Furukawa discloses the structure as built with a floor, shipping in the container to another location and to any other locations by either the shipping container or the structures own means of mobility, the floor is completed at the factory and assembled on site. The number of locations is a design choice since the structure of Couse is designed for mobility and assembly

repeatedly. Couse also discloses platforms (fig. 8: 18, 36, 37) which the structure is placed upon and lowered to the foundation.

Response to Arguments

Applicant's arguments filed 5/7/07 have been fully considered but they are not persuasive. The applicant's arguments regarding the previous action, with respect to Couse, are moot under new grounds of rejections necessitated by the applicant's amendment of claim 2. Regarding the use of the Colvin patent, the applicant must note that the claims 15-20 recite a structure capable of being collapsible and inserted into a shipping container. The prior art is collapsible and inherently capable of fitting within a container. Removal from a container, as claimed in 15, would be the entire frame, the entire frame assembled on site.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK


Basil Katcheves

7/19/07

Primary Examiner AU 3635